IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

THURSDAY, THE NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT
THE HON'BLE MRS JUSTICE T.MEENA KUMARI

WRIT PETITION NO : 4119 of 1995

Between:
J.Sreecharan S/o.J.Rajeshwara Rao
R/o.Sanjeevaiah Colony,
Secunderabad

..... PETITIONER

AND

1. The Mandal Revenue Officer,
   Secunderabad Mandal, Secunderabad.
2. Firka Revenue Inspector, O/o.The Mandal Revenue Officer,
   Secunderabad Mandal, Secunderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction calling for the records relating to the order No.F/1423/95 dt.20/2/1995 of the Mandal Revenue Officer, Secunderabad Mandal, the 1st respondent herein and quash the same.

Counsel for the Petitioner: Mr.E.MANOHAR

Counsel for the Respondents: GP FOR REVENUE

The Court made the following ORDER :

The present Writ Petition has been preferred by the petitioner against the orders dated 20-02-1995 passed by the Mandal Revenue Officer, Secunderabad Mandal, Secunderabad-1st respondent vide Order No.F/1423/95.

2. The case of the petitioner is that the agricultural land in Survey No.148, admeasuring Ac.1-32 guntas situate in Sanjeevaiah Colony, Thokatta Village, Bowenpally, Secunderabad Contonment belonged to Kasula Yadaiah, Kasula Yellaiah and Kasula Veeraswwamy, sons of Kasula Veeraiah and after the death of the said Yadaiah, his 1/3rd share devolved on his widow and children and the joint owners divided the said extent of land into several plots and one such plot, admeasuring 1195 Sq. yards was sold to the petitioner for Rs.36,000/- under a registered sale deed No.221/81 dated 31-1-1981 and as the petitioner was a minor by that date, the land was under the guardianship of his grand father. Likewise, the other 9 plots were sold to different vendees. While so, the land under Sy.No.149, admeasuring Ac.1-29 guntas, belonging to the said Veeraiah was sold to different persons by making it into 13 plots in the year, 1981 and thereafter, on 1-2-1989, after obtaining sanction, vide Contonment Board Resolution No.2 dated 9-3-1989, the petitioner constructed a building with ground and 1st floors and he paid house taxes from 1-4-1991 to 31-3-1995.

3. While so, the Mandal Revenue Officer, Secunderabad-1st respondent issued Notice under Section 7 of the A.P. Land Encroachment Act, 1905 (for short, 'the Act') vide Notice No.F/308/91, dated 23-1-1995, on the father of the petitioner, stating that he is in

unauthorised occupation and that the said property belongs to the Government. Aggrieved by the said notice, the petitioner preferred the present Writ Petition.

4. Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue.

5. A reading of the averments in the present petition goes to show that the petitioner had submitted an application dated 1-2-1989 to the Contonment Board along with the building plans seeking permission for constructing a building on the said plot No.10 and with the permission of the Board vide Contonment Board Resolution No.2 dated 9-3-1989, the petitioner constructed the building at a cost of Rs.15,00,000/- and the petitioner paid house taxes from 1-4-1991 to 31-3-1995.

6. It is submitted by the learned counsel for the petitioner that the Mandal Revenue Officer, Secunderabad-1st respondent had served a notice dated 31-1-1995 on the father of the petitioner under Section 7 of the Act, calling upon him to show cause why he should not be evicted from the building as he is in unauthorised occupation and that the property is the Government property.

7. Learned Senior counsel appearing for the petitioner submitted that the father of the petitioner submitted a reply to the 1st respondent stating that he is no way concerned with the property and as such, a duty is cast upon the 1st respondent to issue appropriate notice to the petitioner to ascertain the real facts before taking action under Section 6 of the Act. It is also stated that as per the records of the Contonment Board office, the house Plot No.10 belongs to the petitioner.

8. A reading of the affidavit filed in support of the Writ Petition goes to shows that the petitioner had purchased the said land under a registered sale deed in the year, 1981. Without going into merits, it would suffice if liberty is granted to the petitioner to submit his explanation to the show cause notice dated 23-1-1995 issued to his father by the Mandal Revenue Officer, Secunderabad-1st respondent, within a period of four weeks from the date of receipt of a copy of this order. On such submission of explanation by the petitioner, the Mandal Revenue Officer, Secunderabad-1st respondent shall dispose of the same in accordance with law within a period of eight weeks from the date of submission of the explanation, after affording an opportunity of hearing to the petitioner. Till such time, the interim orders dated 07-03-1995 passed by this Court in W.P.M.P. No. 5057 of 1995 shall continue.

With the above observations, this Writ Petition is disposed of. No costs.

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(T.MEENA KUMARI,J)

9th September, 2004.
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To

1. The Mandal Revenue Officer,
   Secunderabad Mandal, Secunderabad.

2. Firka Revenue Inspector, O/o.The Mandal Revenue Officer,
   Secunderabad Mandal, Secunderabad

3. Two CCS to the GP for Revenue, High Court
   Buildings, Hyderabad (O.U.T.)

4. Two CD Copies.